

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: STEVEN I. LOCKE
U.S. MAGISTRATE JUDGE

DATE: 12/11/2019
TIME: 11:30 am

CASE: CV 19-3365 (SJF) Aptive Environment, LLC v. Village of E. Rockaway, New York

TYPE OF CONFERENCE: MOTION FTR: 11:12 – 11:23

APPEARANCES:

For Plaintiff: Clint Cowan and Kent Krabill

For Defendant: John E. Ryan

THE FOLLOWING RULINGS WERE MADE:

- ☐ Scheduling Order entered.
- ☐ The court has adopted and So Ordered the joint proposed scheduling order [] submitted by the parties.
- ☐ The Joint Pretrial Order is accepted for filing and the action is deemed ready for trial. The action will be tried in accordance with the discretion and the trial calendar of the District Judge.
- ☒ Other: Motion Hearing held.

The Court has reviewed the parties' submissions on Plaintiff's motion for leave to amend, DE [40], [42], and held oral argument. Consistent with the colloquy on the record, the Court concludes that Plaintiff has met the standards of Fed. R. Civ. P. 15 by acting expeditiously and in good faith in seeking leave to amend, and the amended claims are not futile. For the sake of clarity, the Court notes that the parties dispute the nature of the fees at issue and what the fees are used for, and as a result, whether they violate the First Amendment. Therefore, discovery on these issues is appropriate. *See Kwong v. Bloomberg*, 723 F.3d 160, 165-66 (2d Cir. 2013) (reciting the standard for First Amendment fee-licensing cases on appeal from decision on summary judgment); *see also* Record of oral argument. The motion for leave to amend is **granted**. Plaintiff is directed to file a copy of the Amended Complaint on the docket.

The parties are directed to meet and confer about an appropriate discovery schedule and to contact Judge Feuerstein's chambers directly about discovery deadlines.

SO ORDERED

/s/Steven I. Locke
STEVEN I. LOCKE
United States Magistrate Judge